

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HEATHER ROBINSON,

Plaintiff,

vs.

PATRICIA CARUSO, *et al.*,

Defendants.

Case No. 08-14069

Lawrence P. Zatkoff
United States District Judge

Michael Hluchaniuk
United States Magistrate Judge

**ORDER DENYING PLAINTIFF'S SECOND MOTION FOR
APPOINTMENT OF COUNSEL WITHOUT PREJUDICE (Dkt. 66)**

This matter is before the Court on plaintiff's motion for appointment of counsel. (Dkt. 66). Plaintiff, an inmate currently at the Huron Valley Correctional Facility, brings this action under 42 U.S.C. § 1983, claiming a violations of her rights under the United States Constitution. (Dkt. 1). Plaintiff claims that she received inadequate medical and dental care. *Id.* On May 26, 2009, this case was referred to the undersigned for all pretrial purposes by District Judge Lawrence P. Zatkoff. (Dkt. 60).

Plaintiff filed a motion for the appointment of counsel on September 22, 2008 (Dkt. 3), and on November 25, 2008, Judge Zatkoff denied that request. (Dkt. 10). On June 10, 2009, plaintiff filed a second motion for appointment of

counsel. (Dkt. 66). In support of her second request for counsel, plaintiff again states that she has no legal education, and limited access to legal materials. *Id.*

Under 28 U.S.C. § 1915(e)(1), a federal court may request an attorney to represent an indigent plaintiff. *Reneer v. Sewell*, 975 F.2d 261 (6th Cir. 1992). Except in rare circumstances, it is the practice of this Court to consider the appointment of counsel in prisoner civil rights cases only where exceptional circumstances exist, or in certain cases only after a motion to dismiss or for summary judgment has been decided. In order to make the determination whether there are exceptional circumstances to appoint counsel, the Court considers the type of case involved, plaintiff's ability to represent herself, as well as the complexity of the case, and also whether the claims being presented are frivolous or have a small likelihood of success. *Reneer*, 975 F.2d at 261; *see also, Mars v. Hanberry*, 752 F.2d 254, 256 (6th Cir. 1995).

It appears that, from reading the complaint, plaintiff has an adequate understanding of the issues and matters involved in this case, and is able to articulate the claims and arguments in a reasonable fashion. It also appears that the issues raised in her complaint are straightforward and understandable and not of an unduly complex nature. Given plaintiff's limited access to the law library, which is the basis of her motion for the appointment of counsel, the Court already granted

plaintiff significant additional time to respond to the pending dispositive motions. (Dkt. 73). Should dispositive motion(s) be decided in plaintiff's favor, plaintiff may re-file the motion for the appointment of counsel.

Plaintiff's second motion for appointment of counsel is **DENIED**
WITHOUT PREJUDICE.

IT IS SO ORDERED.

The parties to this action may object to and seek review of this Order, but are required to file any objections within 10 days of service as provided for in 28 U.S.C. § 636(b)(1) and Local Rule 72.1(d)(2). A party may not assign as error any defect in this Order to which timely objection was not made. Fed.R.Civ.P. 72(a). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. Pursuant to Local Rule 72.1(d)(2), objections must be served on this Magistrate Judge.

Date: July 10, 2009

s/Michael Hluchaniuk
Michael Hluchaniuk
United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that on July 10, 2009, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send electronic notification to the following: Ronald W. Chapman, Michael R. Dean, and Ronald E. Wagner, and I certify that I have mailed by United States Postal Service the paper to the following non-ECF participant(s): Heather Robinson, # 309247, HURON VALLEY COMPLEX - WOMEN'S, 3511 Bemis Road, Ypsilanti, MI 48197.

s/James P. Peltier
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